

ORDER NO. 3519

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Tony Hammond

Competitive Product Prices  
Global Expedited Package Services 6 (MC2016-149)  
Negotiated Service Agreement

Docket No. CP2016-261

ORDER GRANTING MOTION FOR PARTIAL RECONSIDERATION

(Issued September 16, 2016)

I. BACKGROUND

On August 16, 2016, the Postal Service filed a request to include an additional Global Expedited Package Services 6 (GEPS 6) agreement within the GEPS 6 product.<sup>1</sup> On August 17, 2016, the Postal Service filed Library Reference USPS-LR-CP2016-261/NP1, "Revisions to ISAL IPA Model15\_v.xls and ISC Dropship Model FY15.xls Resulting from Corrections to FY 2015 IOCS ISAL and IPA Coding."<sup>2</sup> This

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<sup>1</sup> Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 6 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, August 16, 2016 (Notice).

<sup>2</sup> Notice of the United States Postal Service of Filing of USPS-LR-CP2016-261/NP1, August 17, 2016.

library reference was filed under seal and contained a minimal description of the revisions. The Notice was silent with respect to the revisions.

On August 25, 2016, the Commission issued Order No. 3488 and approved the additional GEPS 6 agreement.<sup>3</sup> However, based on the Commission's review of the revisions and the limited information provided under seal by the Postal Service, the Commission determined that the revisions set forth in Library Reference USPS-LR-CP2016-261/NP1 constituted a change in accepted analytical principles where they resulted in material changes to the cost methodology. Order No. 3488 at 6. As a result, the Commission required the Postal Service to initiate a proceeding to consider proposed changes in analytical principles under 39 C.F.R. § 3050.11 prior to using the new methodology in this docket or in the future. *Id.*

*Postal Service Motion for Partial Reconsideration.* On September 1, 2016, the Postal Service filed a motion for partial reconsideration of Order No. 3488.<sup>4</sup> The Postal Service submits that the revision to Library Reference USPS-FY15-NP2 filed as USPS-LR-CP2016-261/NP1 was not a change in analytical principles requiring compliance with 39 C.F.R. § 3050.11; rather, it states the revision reflected corrections of previous errors. Motion for Partial Reconsideration at 1-2. It further asserts that these revisions do not meet the definition of a change in analytical principles as set forth in Order No. 104.<sup>5</sup>

In its Motion for Partial Reconsideration, the Postal Service provides a detailed description of the errors it identified. Motion for Partial Reconsideration at 4-9. It explains the effect of its correction on the inputs used in USPS-FY15-NP2 to produce the unit costs it relies upon to support its request to add a functionally equivalent GEPS 6 agreement to the GEPS 6 product. *Id.* The Postal Service asserts that the revisions

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<sup>3</sup> Order Approving Additional Global Expedited Package Services 6 Negotiated Service Agreement, August 25, 2016 (Order No. 3488).

<sup>4</sup> Motion for Partial Reconsideration of Order No. 3488, September 1, 2016 (Motion for Partial Reconsideration).

<sup>5</sup> *Id.* at 2, 3 (citing Docket No. RM2008-4, Notice of Proposed Rulemaking Prescribing Form and Content of Periodic Reports, August 22, 2008 (Order No. 104)).

provided in USPS-LR-CP2016-261/NP1 reflect corrections of previous errors, rather than “changes in analytical principles” as defined in Order No. 104. *Id.* at 2 (citing Order No. 104 at 27).

The Postal Service states that the errors it identified were “rooted in the [In-Office Cost System (IOCS)] program code in [Library Reference] USPS-FY15-37.”<sup>6</sup> The Postal Service explains that its computer code incorrectly categorized mail as mixed mail, when the mail was actually identified as International Surface Air Lift, International Priority Airmail, and Express Commercial Packages. Motion for Partial Reconsideration at 6-7. It characterizes these errors as “a discrepancy between the operations the procedure was intended to perform, and the operations that the mechanics of the procedure actually perform.” *Id.* at 4. It contends that “[r]ealigning the mechanics of the procedure with the original intent” of the underlying methodological principle is the correction of an error and not a change in the methodological principle. *Id.*

*Public Representative Response.* The Commission issued Order No. 3496 and provided time for interested persons to file responses to the Motion for Partial Reconsideration.<sup>7</sup> The Public Representative filed a response on September 9, 2016.<sup>8</sup> No other response was received.

In her response, the Public Representative agrees with the Postal Service that the corrections to the computer code described by the Postal Service do not constitute a change to an analytical principle. PR Response at 1-2. The Public Representative notes that the Postal Service’s Motion for Partial Reconsideration “provides a better explanation of the revisions made in [USPS-LR-CP2016-261/NP1] than it did in its

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<sup>6</sup> *Id.* at 3. USPS-FY15-37 documents “the [IOCS], including statistical design for and estimation of in-office labor costs.” Docket No. ACR2015, Library Reference USPS-FY15-37, December 29, 2015, Preface. Output data from USPS-FY15-37 is used to produce detailed estimates of attributable costs for various activities. The attributable cost estimates serve as an input to USPS-FY15-NP2, which generates the International Cost and Revenue Analysis report.

<sup>7</sup> Order No. 3496, Order Setting Time to Respond to Motion for Partial Reconsideration, September 2, 2016.

<sup>8</sup> Public Representative Response to Motion for Partial Reconsideration of Order No. 3488, September 9, 2016 (PR Response).

original filing.” *Id.* at 1. She states that “[b]ased on the Postal Service’s discussion in its [m]otion and review of the relevant library references it appears that the Postal Service is only making corrections to USPS-FY15-37, which is an input to USPS-FY15-NP2.” *Id.* at 1-2.

Although the Public Representative shares “the Postal Service’s objective to use the most accurate data to evaluate competitive [negotiated service agreements (NSAs)],” she is concerned with the Postal Service’s use of a competitive NSA docket to make corrections to Annual Compliance Report (ACR) library references. *Id.* at 2. She claims that “allowing the Postal Service to make these types of corrections within a functionally equivalent NSA docket does not promote transparency or provide an opportunity for meaningful comment.” *Id.* at 3. She also notes that it is unclear from “the Postal Service filing if USPS-LR-CP2016-261/NP1 is intended to replace portions of USPS-FY15-NP2 and USPS-FY15-37.” *Id.* at 2. She is concerned that “there will be two sets of input data available to the Postal Service when developing financial analyses for NSAs” because the Postal Service filed its revision in the instant docket instead of in Docket No. ACR2015. *Id.* at 2-3. She maintains that this may create some confusion when reviewing future NSAs until the corrections are incorporated in the FY 2016 ACR. *Id.* at 3.

*Postal Service Reply to the PR Response.* On September 12, 2016, the Postal Service filed a motion for leave to reply to the PR Response.<sup>9</sup> In its reply to the PR Response, the Postal Service objects to the Public Representative’s position that further review of the revisions “in a separate proceeding should still be required before the Postal Service can rely on the revised models.”<sup>10</sup> The Postal Service claims that “there is no purpose served by attempting to create further opportunity for ‘meaningful comment’” once an error has been identified and the correction implemented. Reply to

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<sup>9</sup> Motion of the United States Postal Service for Leave to Reply to Public Representative Response to Motion for Partial Reconsideration of Order No. 3488, September 12, 2016 (Motion for Leave to Reply). The Motion for Leave to Reply is granted.

<sup>10</sup> Reply of the United States Postal Service to Public Representative Response to Motion for Partial Reconsideration of Order No. 3488, September 12, 2016, at 1-3 (Reply to the PR Response).

the PR Response at 2. The Postal Service contends that the “objectives underlying Order No. 104, in which the distinction between error correction and analytic changes was initially established in order to avoid unnecessary procedural entanglements” would be undermined should the Commission require further review of these changes in a separate proceeding. *Id.* at 2-3.

## II. COMMISSION ANALYSIS

Based on the new information provided by the Postal Service, the Commission confirms that the revised models reflect corrections in the coding used to produce the IOCS inputs. The Commission agrees with the Postal Service’s assertion that the computer code in the Postal Service’s model that produced the inputs for USPS-FY15-NP2 was flawed and did not reflect the accepted methodology due to the errors identified by the Postal Service. As these corrections were intended to comport with the original methodology, the Commission finds that the Postal Service does not need to initiate a petition to change an analytical principle under 39 C.F.R. § 3050.11 and grants the Motion for Partial Reconsideration on those grounds.

As the Postal Service notes, corrections of errors would be submitted in accordance with 39 C.F.R. § 3050.2(a) at the time of the next year’s Annual Compliance Determination (ACD) reporting. See Motion for Partial Reconsideration at 3. However, an issue arises, as demonstrated in the present matter, where the Postal Service seeks to correct errors prior to its ACD reporting for the next year. To ensure transparency and continuity, the Commission determines that for future changes that fall between ACD reports, the Postal Service shall file the change with an accompanying detailed explanation in the previous fiscal year’s ACR docket prior to using the change in an alternate docket. In addition, when the Postal Service submits its documentation for the next year’s reporting, it should include a reference to the notice of the change that was filed in the previous year’s ACR docket.

In its Reply to the PR Response, the Postal Service claims that there should not be a separate proceeding to review the corrections of errors in this docket. Although

the changes have been sufficiently reviewed in the instant docket, the Postal Service must still file notice of the revisions and the revised library reference in the ACR docket. The Commission, in Order No. 104, discussed the fact that “correcting an error or changing a quantification technique used in the baseline methodology would only require notice and a brief explanation at the time that an annual compliance report is filed with the Commission.” Order No. 104 at 27 (citing proposed rule 39 C.F.R. § 3050.2). Therefore, the Postal Service still needs to file notice of revisions and the revised library reference in the ACR docket regardless of the fact that the revisions have been reviewed in the instant docket and the revisions do not constitute an analytical principle change.

As stated above, for future revisions to correct errors that fall between ACD reporting periods, the Postal Service shall file the change with accompanying detailed explanation in the previous fiscal year’s ACR docket prior to using the change in an alternate docket and include a citation to the change when filed in the next year’s ACR docket.

In conclusion, the Commission grants the Motion for Partial Reconsideration. Subsequent to filing notice of the change and the revised library reference in the FY 2015 ACR docket, the Postal Service shall rely on the models in USPS-LR-CP2016-261/NP1 for purposes of subsequent filings.

### III. ORDERING PARAGRAPHS

*It is ordered:*

1. The Postal Service’s Motion for Partial Reconsideration is granted.
2. The Postal Service shall file notice of the change and the revised library reference in the FY 2015 ACR docket.

3. The Postal Service shall include a citation to the notice of the change when filing the revisions in the FY 2016 ACR docket.
4. For future revisions that fall between ACD reporting periods, the Postal Service shall file the change with accompanying detailed explanation in the previous fiscal year's ACR docket prior to using the change in an alternate docket and include a citation to the change when filed in the next year's ACR docket.

By the Commission.

Stacy L. Ruble  
Secretary